

WPA 17370 of 2024
Md. Samir & Anr.
Vs.
State of West Bengal & Ors.

Mr. Somnath Ganguly,
Mr. Sumitava Chakraborty

...for the Petitioner

Mr. Biswajit Mukherjee,
Mr. S. K. Debnath

...for KMC

A demolition order dated August 8, 2022, was passed in respect of a premises at B/166/H/84, Keshab Chandra Sen Street, P.S.-Amherst Street, Kolkata – 700 009 by the Executive Engineer (C), Building Department, Kolkata Municipal Corporation.

The petitioners have preferred an appeal against the said demolition order before the Municipal Building Tribunal on September 7, 2022.

During the pendency of the appeal, the Corporation proceeded with the demolition order since there was no stay order from the Tribunal.

Challenging the action of the corporation's action in proceeding with the demolition work during the pendency of the appeal, the writ petitioners have filed this writ petition contending, inter alia, that the Tribunal is not functioning and if the demolition order is implemented, the appeal will become infructuous.

This Court decided to delve into the merits of the

demolition order since the Building Tribunal is not functional as on date.

It was submitted on behalf of the writ petitioners that the said demolition order was passed without giving any notice upon the petitioners and the petitioners have suffered an ex parte order.

The Corporation was asked to produce the relevant records to demonstrate whether the notice of proceedings under Section 401 of the Kolkata Municipal Corporation was served upon the petitioners or not.

The Corporation has produced the records. From the records, it appears that the petitioners chose not to appear on the date fixed for hearing by the Executive Engineer (C), Building Department, Kolkata Municipal Corporation though notice of hearing was served upon them.

The petitioners also could not demonstrate that the construction has been carried out after obtaining a sanction plan from the Corporation.

I find no reason to restrain the Corporation from proceeding with the demolition order.

The Corporation will be at liberty to implement demolition order dated August 8, 2022 immediately.

Accordingly, **WPA 17370** of **2024** is dismissed.

Let the copies of the documents produced by the Corporation be kept with the records.

Urgent certified *website* copies of this order, if

applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)